

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1916/P1dn
ARG:sac:jm

April 11, 2013

ATTN: Kathy Divine

Please review the attached draft carefully to ensure that it is consistent with your intent.

The attached draft is based on the provisions of Minnesota law provided to me. Many of these provisions are already covered under Wisconsin law, particularly ss. 192.31 and 192.53, Wis. Stats. The attached draft reflects my attempt to identify and incorporate the substantive, but not stylistic or structural, differences in the two states' laws.

Most penalties for violation of railroad safety provisions are specified in ss. 192.54 and 192.55, stats. However, the penalty for violating s. 192.53 is specified in s. 192.53 (6), stats. I note that these penalties are less than the \$500 penalty specified under Minnesota law. Do you want me to amend any of these penalty provisions?

I have no real-world experience with railroad operations and am not familiar with many of the terms and concepts in this draft. I highly recommend that the draft be reviewed by OCR. Also, as we discussed, certain aspects of state regulation of railroads, including some safety regulation, are preempted by federal law. (A lengthy description of federal regulation can be found in the analysis to 2005 AB-588.) I conducted some research and did not find that any of the provisions in this draft are preempted by federal law. However, you may wish to also have this draft reviewed by the FRA to advise whether any of the provisions in this draft are likely to be preempted.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us